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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/361,458	07/27/99	MEIGS	J 30-4590

ROBERTS & MERCANTI, LLP.
81 TAMARACK CIRCLE
SKILLMAN NJ 08558

MMC1/1013

EXAMINER

EASTHOM.K

ART UNIT

PAPER NUMBER

2832

DATE MAILED:

10/13/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/361,458

Applicant(s)
Meigs et al.

Examiner
Karl Easthom

Group Art Unit
2832



☒ Responsive to communication(s) filed on Sep 22, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-20 is/are pending in the application.

Of the above, claim(s) 12-20 is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-11 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 9

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948 (*No objections*)

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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1. Applicant's election with traverse of Group I, claims 1-11 in Paper No. 8 is acknowledged. The traversal is on the ground(s) that the Examiner did not show distinctness, a single inventive concept is involved under 37 CFR 1.1419, and In Re Ochiai mandates joinder of the product and process claims. This is not found persuasive because, the distinctness between the products and process claims was shown because as noted in Paper no. 8, par. 2, the products can be made by a materially different process, and as to the subcombination/combination, the particulars of the subcombination are not solely relied upon and separate utility for the subcombination was shown. As to 1.1419(b), the rule allows restriction for distinct inventions. In Re Ochiai does not require joinder of a product that can be made by a distinct materially different process.

The requirement is still deemed proper and is therefore made FINAL.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 5-7 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Castonguay et al. Castonguay discloses the claimed invention at claim 1 where phosphorus is the non-conductive material of the resistive composite comprising conductive material nickel, and the foil of claim 6 is disclosed at col. 5, lines 26-33.

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4. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Faber et al. Faber discloses the claimed invention at col. 5, where the conductive material is ruthenium, and the ceramics comprise silica particles in a borosilicate frit.

5. Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Endo. Endo discloses the claimed invention at Fig. 1 where for claim 6, the areas of copper 2 have been etched but the laminate is considered a multi-layered foil since copper is still present. Alumina, for claims 3, 4, 8, 9 and 11 is disclosed at Table 1 and Col. 5, lines 53-65 for the nonconductive particulate materials. For the metal, metalloid, alloy of claims 10-11, col. 6 discloses metal oxides. Since metal oxides comprise a conductive metal, claim 11 is met.

6. Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Ambros et al. Ambros et al. discloses the claimed invention at Fig. 1 where 1 is the conductive metal layer of claims 6 and 11, and the conductive metal is silver or nickel as disclosed at col. 3, with alumina, silica etc. disclosed as the non-conductive material for the resistive composite material 3.

7. Claims 1, 6, and 8-9, are rejected under 35 U.S.C. 102(b) as being anticipated by Yamada et al. Yamada et al. discloses the claimed invention at col. 15, lines 33-46, where copper foils are disclosed as an electrode, and the composite composition comprises alumina or zinc oxide or clay as a filler, col. 10, lines 26-37, and the conductive material is carbon, col. 7. The laminate is disclosed at col. 8, lines 50-55.

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over .


Yamada et al. in view of Chandler et al. Yamada et al. discloses the claimed invention as noted above except for the conductive filler being metal. Chandler discloses metal fillers for replacing carbon fillers such as that of Yamada et al. to obtain a lower resistivity for a PTC device col. 1, lines 1-30, and it would have been obvious to make such a replacement for the reasons stated.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Johnston, Croson, Sturm, Butz, Couser et al., and Rice et al. disclose composites.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karl Easthom whose telephone number is (703) 308-3306. The examiner can normally be reached on M-Th from 6:30AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Gellner, can be reached on (703) 308-1721. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7722.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.


KARL D. EASTHOM
PRIMARY EXAMINER
10/12/07